

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

HAZEL WALSH, *et al.*,

Plaintiffs,

v.

KINDRED HEALTHCARE, INC., *et al.*,

Defendants.

No. C 11-00050 JSW

**ORDER GRANTING IN PART  
JOINT MOTION TO HEAR  
MOTION FOR PRELIMINARY  
APPROVAL ON SHORTENED  
TIME AND REQUIRING  
SUPPLEMENTAL BRIEFING**

**(Docket Nos. 128, 129.)**

On July 2, 2013, the parties filed a request to have the Court hear, on shortened time, the motion for preliminary approval of a class action settlement. In the alternative, the parties requested that the Court resolve the matter on the papers. The Court GRANTS, in part, the request to hear the matter on shortened time (Docket No. 129), and it shall resolve the motion for preliminary approval on the papers. Accordingly, the hearing on the motion for preliminary approval (Docket No. 128), scheduled for August 23, 2013 is VACATED.

The Court, however, requires supplemental briefing on the following issues, which shall be submitted on or before August 23, 2013. At that time, the Court will deem the matter submitted and issue an order forthwith.

1. At the time they filed the motion, the settlement agreement had not been fully executed. The parties shall advise the Court if the settlement agreement is fully executed and, if not, why.

1           2.       The parties have provided that notice will be sent by mail, and a one time  
2 advertisement in *USA Today* in California. The parties shall provide further briefing on: (1) the  
3 percentage of class members for whom mail notice will be sent; and (2) circulation information  
4 about *USA Today*, so the Court can evaluate whether any further publication notice should be  
5 required.


6           3.       The Court is inclined to extend the time for class members to object or opt-out  
7 from 45 days to 60 days after notice is sent. The Court also is inclined to require Plaintiffs to  
8 file their motion for attorneys' fees and incentive awards, including any supporting declarations  
9 from counsel and class representatives, at least 21 days before the deadline to opt-out or object.  
10 Would the parties object to those modifications? If so, on what basis?

11           4.       The Settlement Agreement makes reference to a *cy pres* distribution, but the  
12 parties do not address this in their motion. When do the parties anticipate providing the Court  
13 with that information?

14           5.       The parties' proposed notice states that the Clerk's Office is open between the  
15 hours of 8:30 a.m. and 4:00 p.m. The Clerk's office does not open until 9:00 a.m. The parties  
16 shall make that correction in their form notice and in any other notices or postings that contain  
17 that information.

18           **IT IS SO ORDERED.**

19  
20 Dated: August 15, 2013

  
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JEFFREY S. WHITE  
UNITED STATES DISTRICT JUDGE